

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY,
Plaintiff,

v.

NORUM, et al.,
Defendants.

Case No. [14-cv-02767-VC](#) (PR)

**ORDER DENYING PLAINTIFF'S
MOTION TO SUBSTITUTE
DEFENDANT**

Re: Dkt. No. 69

On June 8, 2015, the Court issued an order for plaintiff Christopher Lipsey to file a motion to substitute the proper party for deceased defendant Dr. Vance Norum, or face dismissal of his claim against Norum. On July 9, 2015, Lipsey filed a motion to substitute the Chief Mental Health Official at Pelican Bay State Prison or the State of California. This motion is denied.

Lipsey argues that it is proper to substitute the Chief Mental Health Official or the State of California because “suits against state officials in their official capacity should be treated as suits against the state.” However, Lipsey’s claim against Norum was based on the allegation that Norum ordered Lipsey to be injected with a tranquilizer without his consent. This stated an Eighth Amendment claim against Norum in his individual, not his official capacity. As explained in the Court’s December 1, 2014 Order of Service, “vicarious liability may not be imposed on a supervisor for the acts of lower officials in a § 1983 action.” *Lemire v. California Dep’t of Corrections & Rehabilitation*, 726 F.3d 1062, 1074 (9th Cir. 2013).

In the June 8, 2015 order, the Court granted Lipsey forty-five days from the date of the order to notify the Court of the proper party to be served, which would be Norum’s non-party

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successor or representative. Although the forty-five days have passed, the Court grants Lipsey another twenty-one days in which to notify the Court of the proper party to be served. If Lipsey fails to do so, the claim against Norum will be dismissed.

IT IS SO ORDERED.

Dated: August 6, 2015



VINCE CHHABRIA
United States District Judge

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CERTIFICATE OF SERVICE


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 6, 2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Christopher Lipsey ID: F-18039
Corcoran State Prison Housing 4AIL/64
P.O. Box 3476
Corcoran, CA 93212

Dated: August 6, 2015

Richard W. Wieking
Clerk, United States District Court

By: 
Kristen Melen, Deputy Clerk to the
Honorable VINCE CHHABRIA